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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/763,994	01/23/2004	Jaime E. Garcia	JK01244	8225
28268	7590	02/16/2006		
THE BLACK & DECKER CORPORATION 701 EAST JOPPA ROAD, TW199 TOWSON, MD 21286			EXAMINER ALIE, GHASSEM	
			ART UNIT 3724	PAPER NUMBER

DATE MAILED: 02/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	10/763,994		GARCIA, JAIME E.	
	<b>Examiner</b>		<b>Art Unit</b>	
	Ghassem Alie		3724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 January 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>01/23/04</u> . | 6) <input type="checkbox"/> Other: ____.  |

***Drawings***

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: 134 in Fig. 1A; 138 in Figs. 1A and 1B; 206, 208, 210, 218, 224, 226, 234, 238 in Fig. 2; 310, 318, 324, 326, 328 in Fig. 3; 410, 424, and 430 in Fig. 4; and 506, 524, 528 in Fig. 5.

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "114" has been used to designate both a recessed slot and a miter gage.

Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

a person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-6, 9-13, and 16-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Sommerville (6,170,370). Regarding claims 1, 9, and 16, Sommerville teaches a table saw 10 including a support 14 including an aperture for extending a circular saw blade 22 therethrough. Sommerville also teaches that the support 14 including a workpiece support surface 28 for supporting a workpiece 26 to be cut and an alignment fence 16 adjustably mounted to the table saw. Sommerville also teaches that the alignment fence 16 being configured for positioning the workpiece 26 to be cut with respect to the circular saw blade. Sommerville also teaches an arbor 88 mounted to the table saw generally opposite the workpiece support 28 surface. Sommerville also teaches that the arbor being arranged for adjustably supporting the circular saw blade and a kerf intrusion device 24 coupled to the arbor such that the kerf intrusion device is disposed in the kerf 34 formed in a workpiece 26 by operation of the circular saw blade. It should be noted that the arbor is coupled to the slide 70 and turnnion 76. The splitter is defined as a backslittter. The splitter is includes a lower portion and upper portion. The lower portion is connected to the slide 70 and the upper potion includes two tabs or wings 40, 42 which act as a spring and biased a portion of the workpiece toward the fence 16. Sommerville also teaches that kerf intrusion device including a side pressure splitter 40 at least partially positioned in the kerf 34 formed in the workpiece 26 by operation of the circular saw blade and the side pressure splitter 40 being directed towards the alignment fence 16. Sommerville also teaches that the kerf intrusion device side pressure splitter 40 is orientated such that the side pressure splitter biases a portion 26b of the workpiece being cut between the kerf intrusion device and the alignment fence into contact with the alignment fence. Sommerville also teaches means 24 for maintaining contact

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between the workpiece and the alignment fence generally opposite the cutting zone of the circular saw blade. Sommerville also teaches a backsplitter 24 coupled to the arbor 18 whereby the back splitter bevels with arbor so that the splitter is disposed in the kerf 34 formed in a workpiece 26. Sommerville also teaches that the backsplitter 24 includes a side pressure splitter 40. See Figs. 1-10 and col. 3, lines 1-61 in Sommerville.

Regarding claims 2 and 17, Sommerville teaches everything noted above including that the kerf intrusion device 24 is a backsplitter.

Regarding claims 3, 4, 6, 10, 11, and 13, Sommerville teaches everything noted above including that the side splitter 40 is a tab formed unitarily with the kerf intrusion device 24 and the side pressure splitter is biased by a spring. It should be noted that the side pressure splitter 40 is resilient as a spring and also acts like a leaf spring. See Figs. 1-10 in Sommerville.

Regarding claims 5, 12, and 18, Sommerville teaches everything noted above including that the side pressure splitter 40 includes a trailing edge 52, 54 that engages the workpiece to prevent the workpiece from traveling towards the circular saw blade. Col. 3, lines 15-25 in Sommerville.

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all Obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patent ability shall not be negative by the manner in which the invention was made.

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6. Claim 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Behne et al. (2002/0174755), hereinafter Behne, in view of Thrasher (3,566,934) and in Further view of Sommerville. Regarding claims 1, 9, and 16, Behne teaches a table saw 20 including a support 30 including an aperture for extending a circular saw blade 140 therethrough. Behne also teaches that the support 30 including a workpiece support surface 31 for supporting a workpiece to be cut and an alignment fence 50 adjustably mounted to the table saw. Behne also teaches that the alignment fence 50 being configured for positioning the workpiece to be cut with respect to the circular saw blade 140. Behne also teaches an arbor 341 mounted to the table saw generally opposite the workpiece support 31 surface. Behne also teaches that the arbor being arranged for adjustably supporting the circular saw blade and a kerf intrusion device 350 coupled to the arbor such that the kerf intrusion device is disposed in the kerf formed in a workpiece by operation of the circular saw blade. Behne also teaches a backsplitter 350 coupled to the arbor 341 whereby the back splitter bevels with arbor so that the splitter is disposed in the kerf formed in a workpiece 26. See Figs. 1-4 and 19-21 and pages 3-4, paragraphs, 52-56 in Behne.

Behne does not teach that kerf intrusion device or the backsplitter has a side pressure splitter at least partially positioned in the kerf formed in the workpiece.

Subsequently, Behne also does not teach the kerf intrusion device side pressure splitter is orientated such that the side pressure splitter biases a portion of the workpiece being cut between the kerf intrusion device and the alignment fence into contact with the alignment fence. However, the use of side pressure splitter with the backsplitter or the like is well known in the art such as taught by Thrasher.

Thrasher teaches a kerf intrusion device or backsplitter 15 including a side pressure splitter 21a at least partially positioned in the kerf formed in a workpiece by operation of the circular saw blade. Thrasher teaches that the side pressure splitter direct a portion of the workpiece away from the other portion of the workpiece. In another words, the side pressure splitter pushes a portion of the workpiece to laterally to the right or left during the sawing operation of the workpiece.

Thrasher does not explicitly teach that the side pressure splitter direct a portion of the workpiece towards an alignment fence. However, as stated above, Sommerville teaches that the kerf intrusion device side pressure splitter 40 is orientated such that the side pressure splitter biases a portion 26b of the workpiece being cut between the kerf intrusion device and the alignment fence into contact with the alignment fence. It should be noted that the side pressure splitter 21a in Thrasher is capable of directing a portion of the workpiece toward an alignment fence. It should be also noted that the side pressure splitter in Sommerville is similar to the side pressure splitter in Thrasher. The side pressure splitter in Thrasher could be provides for Behne's backsplitter whereby a portion of the workpiece to be directed towards the alignment fence as taught by Sommerville.

It would have been obvious to a person of ordinary skill in the art to provide Behne's backsplitter with the side pressure splitter as taught by Thrasher in order to enlarge the kerf formed in the workpiece during the sawing operation and ensure that the cut portion of the workpiece does not bent back into the cutting plane; instead the cut portion of the workpiece is directed towards the alignment fence as taught by Sommerville.

Regarding claims 2 and 17, Behne, as modified above, teaches everything noted above including that the kerf intrusion device 21a is a backsplitter.

Regarding claims 3, 4, 6, 10, 11, and 13, Behne, as modified above, teaches everything noted above including that the side splitter 21a is a tab formed unitarily with the kerf intrusion device and the side pressure splitter is biased by a spring. It should be noted that the side pressure splitter 21a is resilient like spring and also acts like a leaf spring. See Figs. 193 in Thrasher.

Regarding claims 5, 12, and 18, Behne, as modified above, teaches everything noted above including that the side pressure splitter 21a includes a trailing edge that engages the workpiece to prevent the workpiece from traveling towards the circular saw blade. Col. 3, lines 15-25 in Sommerville.

Regarding claims 7, 14, and 19, Behne teaches everything noted above including that one anti-kick pawl. It should be noted that the anti-kick pawl is shown in Fig. 19. A serrated edge of the anti-kick pawl behind the splitter 3250 is shown. In addition, Official notice is taken that the use of a backsplitter having an anti-kick pawl is well known in the art as is evident in Sutton (2001/0035081).

Regarding claims 8, 15, 20, Behne teaches everything noted above including a pair of opposing rails 35.

### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Huang (6,644,157), Wang (2002/0096030), Pilchowski (6,418,829), Handler et al.



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(4,625,604), Berkeley (4,615,247), Hedpeth (2,095,330), Galanga (2,530,867), and Shiotani et al. (5,230,269) teach a table saw including a kerf intrusion device or a backsplitter having an anti-kickback pawl.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ghassem Alie whose telephone number is (571) 272-4501. The examiner can normally be reached on Mon-Fri 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan Shoap can be reached on (571) 272-4514. The fax phone number for the organization where this application or proceeding is assigned is (757) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, SEE <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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